

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

STATE OF WASHINGTON,

Plaintiff,

v.

LANDMARK TECHNOLOGY A, LLC, and  
RAYMOND MERCADO, individually,

Defendants.

Case No. C21-728-RSM

ORDER GRANTING IN PART STATE’S  
MOTION TO COMPEL AND FOR  
RELIEF FROM DEADLINES TO  
ADDRESS POTENTIAL DISCOVERY  
MISCONDUCT

**I. INTRODUCTION**

This matter comes before the Court on Plaintiff’s “Motion to Compel and for Relief from Deadlines to Address Potential Discovery Misconduct,” Dkt. #89. The parties also delivered this Motion to the Court via a telephonic motion pursuant to LCR 7(i) on July 2, 2024.

Plaintiff alleges that three days before the close of discovery, Defendants disclosed, for the first time, highly relevant emails (within an over two-thousand-page document) to Plaintiff’s Complaint. *Id.* at 5. The parties conferred telephonically on July 2, 2024, where Plaintiff’s contend that “Defendants provided no reasonable explanation for why the documents at issue were not produced until last week.” *Id.* at 7. Plaintiff argues that these newly-disclosed emails could have a massive impact on Plaintiff’s upcoming depositions, expert opinions and testimony,

1 and overall litigation and request that the Court: (1) issue a 60-day stay to review the new  
2 documents and conduct additional discovery; (2) set a status conference; (3) allow Plaintiff to  
3 serve supplemental expert reports; (4) require Defendants to produce all non-privileged  
4 documents within 30 days; and (5) “requests the Court recognize [Plaintiff’s] right to seek further  
5 relief – including monetary sanctions – should the results of future discovery uncover misconduct  
6 warranting additional sanctions.” *Id.* at 10-14. Via the telephonic motion, Plaintiff also requested  
7 that this Court expedite the noting process for this Motion, requiring all responsive briefings and  
8 this Court’s order by end-of-day tomorrow, July 11, 2024, due to depositions beginning this  
9 Friday, July 12, 2024. Defendants oppose Plaintiff’s expedited-briefing-schedule request,  
10 arguing that Plaintiff has not shown required diligence to warrant such a schedule.

11 The Court is inclined to agree with Plaintiff. These probable delays by Defendants,  
12 handing over possibly highly relevant emails within thousands of pages of documentation and  
13 the like at the last minute, tend to point in the direction that Plaintiff’s allegations of misconduct  
14 are true. However, Defendants shall have the opportunity to respond to Plaintiff’s allegations in  
15 the instant Motion. Due to upcoming depositions and the parties’ litigation preparation  
16 schedules, the Court finds that Plaintiff has shown good cause for this Court to grant Plaintiff’s  
17 request for a 60-day stay of this case. The briefing schedule for this Motion, however, shall  
18 remain the same, with Defendants’ Response due no later than 15 days and Plaintiff’s Reply due  
19 no later than 21 days after the filing of the Motion. *See* LCR 7(d)(3).

20 Being familiar with the record and files herein, the Court finds and ORDERS that  
21 Plaintiff’s Motion is GRANTED IN PART. All currently pending deadlines in this matter,  
22 including Defendants’ deadline to disclose rebuttal expert reports and the deadline for dispositive  
23 motions, are hereby STAYED for a period of 60 days, which period may be extended as the  
24 Court deems necessary and appropriate, pending a status conference with the Court. The parties

1 shall appear at an in-person status conference on October 9, 2024, at 10:00 a.m. During the  
2 Status Conference, the parties shall be prepared to discuss: (1) the need for any further  
3 adjustments to the Case Schedule to accommodate additional discovery, including with respect  
4 to supplemental and rebuttal expert reports; and (2) whether the appointment of a discovery  
5 master or a forensic audit of Defendants' document repositories and email accounts is necessary  
6 to determine compliance with Defendants' discovery obligations and this Order. All other  
7 requests for relief in Plaintiff's Motion, Dkt. #89, shall be addressed after the noting date of July  
8 24, 2024.

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10 DATED this 10<sup>th</sup> day of July, 2024.

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13 RICARDO S. MARTINEZ  
14 UNITED STATES DISTRICT JUDGE  
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